

**RCW 64.90.460 Liability—Tolling.** (1) A unit owner is not liable, solely by reason of being a unit owner, for an injury or damage arising out of the condition or use of the common elements. Neither the association nor any unit owner except the declarant is liable for that declarant's torts in connection with any part of the common interest community which that declarant must maintain.

(2) (a) An action alleging a wrong done by the association, including an action arising out of the condition or use of the common elements, may be maintained only against the association and not against any unit owner.

(b) If the wrong occurred during any period of declarant control and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit owner for (i) all tort losses not covered by insurance suffered by the association or that unit owner and (ii) all costs that the association would not have incurred but for a breach of contract or other wrongful act or omission by the association.

(c) If a declarant is liable to an association under this section, the declarant is also liable for all expenses of litigation, including reasonable attorneys' fees and costs, incurred by the association.

(3) (a) Except as provided in RCW 64.90.680 with respect to warranty claims, any statute of limitation affecting the association's right of action against a declarant under this chapter is tolled until any period of declarant control terminates.

(b) A unit owner is not precluded from maintaining an action contemplated under this section because that person is a unit owner, board member, or officer of the association. Liens resulting from judgments against the association are governed under RCW 64.90.490. [2018 c 277 § 313.]